



United States Department of the Interior

NATIONAL PARK SERVICE

1849 C Street, N.W.

Washington, D.C. 20240

AUG 25 2010

IN REPLY REFER TO:

Re: **Dunfee / Broh Building, 901 – 903 Third Avenue, Huntington, West Virginia**
Project Number: 4683

W. M. Prindle & Company Building, 905 – 909 Third Avenue, Huntington, West Virginia
Project Number: 4684

Dear

My review of your appeal of the decision of Technical Preservation Services (TPS), denying certification of the rehabilitation of the properties cited above is concluded. The appeal was initiated and conducted in accordance with Department of the Interior regulations (36 CFR Part 67) governing certifications for Federal income tax incentives for historic preservation as specified in the Internal Revenue Code. I thank you and for meeting with me in Washington on August 20, 2010, and for providing a detailed account of the two projects, including a copy of your book.

I note that, although I am providing one letter in this matter, I have considered each project separately. After careful review of the complete records for these projects, I have determined that the rehabilitations of the Dunfee / Broh Building and the W.M. Prindle & Company Building are not consistent with the historic character of the property and the historic district in which they are located, and that the projects do not meet Standards 2 and 6 of the Secretary of the Interior's Standards for Rehabilitation. Therefore, the denials issued by TPS on May 12, 2010, concerning the Dunfee / Broh Building, and on May 17, 2010, concerning the W.M. & Company Building, are hereby affirmed. However, I have further determined that the projects could be brought into conformance with the Standards, and thereby be certified, if the corrective measures described below are undertaken.

The Dunfee / Broh Building (c. 1885) and the W.M. Prindle Building (c. 1889) (hereafter referred to as the "Broh Building" and the "Prindle Building") are located in the Downtown Huntington Historic District. They were certified as contributing to the significance of the historic district on August 17, 1999, and August 16, 1999, respectively. In its review, TPS found that the rehabilitations of these "certified historic structures" did not meet the Standards for Rehabilitation owing to the removal of the ceiling finish from upper floors of each building and the removal of window trim and the vertical beaded board paneling from the Broh Building.

With regard to this last issue, the additional photographs you presented at our meeting supplementing those in the application show that the new wall paneling in the upper floors of the Broh Building in fact replicates the visual appearance of the vertical beaded boards removed in the course of the project. Likewise, I have determined that the new window trim acceptably recaptures the appearance of the historic trim removed. Consequently, I find that these elements of the work substantially comply with the requirement of Standard 6, cited by TPS in its letter, that new features in place of historic features "... shall match the old in design, color, texture, and other visual qualities and, where possible, materials."

However, in each building, finished ceilings were removed from the upper floors, and were not replaced. As a result, the exposed joists or truss systems have indeed, as TPS noted, transformed the interior spaces from finished to unfinished spaces characteristic of warehouses or industrial properties rather than commercial buildings. I agree with TPS that this transformation thus causes both projects to contravene Standards 2 and 6 of the Secretary of the Interior's Standards for Rehabilitation. Standard 6 was referenced above. Standard 2 states: "*The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.*"

During the appeal meeting, you stated that you intend to install ceilings on the upper floors of both buildings once these spaces are leased. However, this means the projects are incomplete at this time and thus cannot be certified as a completed rehabilitation. The regulations state, "*A project does not become a certified rehabilitation until it is completed and so designated by the NPS. . . . When requesting certification of a completed rehabilitation project, the owner shall submit a Request for Certification of Completed Work (NPS Form 10-168c) and provide the project completion date and a signed statement that the completed rehabilitation project meets the Secretary's Standards for Rehabilitation and is consistent with the work described in part 2 of the Historic Preservation Certification Application.*" (36 C.F.R. §67.6(a)(2)).

Although these projects as completed to date cannot be approved, I have determined that they could be brought into conformance with the Standards and thus meet the minimum test for certification if ceilings were to be installed in the spaces at issue. The ceiling heights may be dropped to accommodate utilities but must be as close as possible to their original heights and must be full height along the exterior window walls. I note that the sample office in the Prindle Building conforms to this condition. If you choose to proceed with the corrective measures described above, you may secure certification of the rehabilitations by filling out Requests for Certification of Completed Work and submitting them with photographs of the completed work to TPS, Attention _____ with a copy to the West Virginia Division of Culture and History. Note that these projects will remain ineligible for the tax incentives until they are designated "certified rehabilitations" following completion of each project.

As Department of the Interior regulations state, my decisions in these cases are the final administrative decisions with respect to the denial that TPS issued regarding rehabilitation certification. A copy of this letter will be provided to the Internal Revenue Service. Questions concerning specific tax consequences of this decision or interpretations of the Internal Revenue Code should be addressed to the appropriate office of the Internal Revenue Service.

Sincerely,



John A. Burns, FAIA
Chief Appeals Officer
Cultural Resources

cc: SHPO-WV
IRS